IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 26895 of 2004(B)

PETITIONERS:

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1. SUSHEELA, W/O. LATE B.SAJEEVA,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

2. B.PURUSHOTHAMA, S/O. B.SAJEEVA,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

3. KAMALAKSHI, D/O. B.SAJEEVA,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

4. KRISHNA BAI, S/O. -DO-.,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

5. KAMALAKSHA, S/O. -DO-.,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

6. CHANDRASEKHARA, S/O. -DO-,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

7. VEDAVATHI, W/O. LATE PRABHAKARA,
   NEAR MARIDUGI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD TALUK.

8. SWARNALATHA, D/O. VADAVATHI,
   NEAR MARIGUDI TEMPLE, KORAKKADU TALANGARA VILLAGE,
   KASARAGOD.

BY ADV. SRI.V.V.ASOKAN
SMT. S. AMINA

RESPONDENTS:
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1. VIMALA, D/O. LATE RAMACHANDRA,
TALANGARA VILLAGE, KASARAGOD TALUK.

2. NALINI, D/O. LATE RAMACHANDRA,
TALANGARA VILLAGE, KASARAGOD TALUK.

3. SAVITHRI, W/O. LATE ASOKA,
MANNIPADI, KADLU VILLAGE, KASARAGOD TALUK,
P.O. RAMADAS NAGAR.

4. VARIJA, W/O. DR.KRISHNAN GATTI,
BADIADKA ROAD, KOIPADY VILLAGE, KUMBLA,
KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.S.V.BALAKRISHNA IYER FOR R1 AND R2.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER IN E.A.265/98 IN E.P.128/98 IN O.S.142/82 OF MUNSIFF'S COURT, KASARAGOD.

EXT.P2: COPY OF THE ORDER IN E.A.266/98 IN E.P.128/98 IN O.S.142/82 OF MUNSIFF'S COURT. KASARAGOD.

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RESPONDENT'S EXHIBITS: NIL

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// TRUE COPY//

PIUS C. KURIAKOSE,J.

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W.P.(C) No.26895 of 2004

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Dated: 25th July, 2007

JUDGMENT

Heard counsel for the petitioners.

2. I find force in the submission of the learned counsel for the petitioners that the judgment of the Supreme Court in **Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal** (AIR 1997 SC 856) which was relied on by the execution court was not applicable to the facts which obtained in this case. It could not be said that the party respondents who were impleaded as per Ext.P1 were strangers to the decree. Whatever claims they were having over the property in question could be agitated by them in A.S.No.672/98 which is now pending before this court against the judgment and decree in O.S.No.195/95. Leaving open that right to the party respondents, I set aside Ext.P1 and dismiss the impleadment application. As for Ext.P2 it is ordered that the order of stay granted under Ext.P2 will be operative only for a further period of five more months from today. It is open to the party respondents to seek appropriate further orders of stay from A.S.No.672/98.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**